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OGC Has Reviewed

JUL 27 1951

Finance Division

Office of the General Counsel

Refund of Terminal Leave [REDACTED]

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1. Reference is made to your memorandum of 22 May 1951, concerning reimbursement to CIA of a terminal leave payment made by the predecessor organization of [REDACTED]

2. The law provides that a person in [REDACTED] position shall refund that portion of his lump sum leave payment covering the period between the date of his reemployment and the expiration of his leave period (5 USCA 61b). It is mandatory upon the reemploying Agency to make this collection.

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3. In view of the language contained in Comptroller General's Decision B-99676, dated 11 January 1951, you have submitted a question as to whether refund is required for 75 hours of leave which cannot be credited to [REDACTED] account at this time. In our opinion, the quotation from that decision is not applicable in this case. [REDACTED]

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[REDACTED] case is that of an employee who should have made a refund for 456 hours of annual leave when employed by CIA. At that time he could have been credited with 456 hours. When officially notified of his refund obligation, he could have been credited with 456 hours.

[REDACTED] then requested submission of his case to the General Counsel. The General Counsel concurred in the Finance Division's ruling, and even then [REDACTED] could have been credited with 456 hours.

However, [REDACTED] chose to delay the matter for an additional period. His contentions are legally untenable, and his dilatory actions prevent any favorable ruling from an equitable standpoint.

4. This office is of the opinion that the statement you have quoted from the Comptroller General's Decision B-70596 is more relevant to this case, namely, that refund of the proper portion of the lump sum payment ordinarily should be made a condition precedent to the reemployment (27 Comp. Gen. 301, at 305). Since we can perceive no reason to reverse the General Counsel's previous decision, it is our opinion that [REDACTED] must reimburse the Agency for the amount of 456 hours of annual leave, including the 75 hours mentioned in your memorandum.

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OGC/JJB/McD

Enclosures:

Memo from FDM undated

Memo from [REDACTED] dtd 6 December 1950

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Memo from Don Fin. Div. dtd 7 Nov 1950

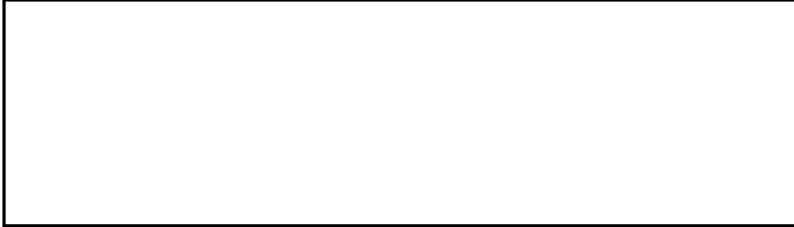
Memo from FDM dtd 8 Nov 1950

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Enclosure